

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GERALD DZIEDZIC, JR,

Plaintiff,

vs.

Case No. 21-

UNUM LIFE INSURANCE
COMPANY OF AMERICA,

Defendant,

_____ /

DONALD W. BUSTA, JR. (P67544)

Attorney for Plaintiff

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PLAINTIFF'S COMPLAINT

NOW COMES Plaintiff, GERALD DZIEDZIC, JR, by and through his attorneys, DONALD W. BUSTA, JR, and LEVINE BENJAMIN, P.C., and for his Complaint against Defendant, UNUM LIFE INSURANCE COMPANY OF AMERICA states as follows:

1. At all times, relevant hereto, Plaintiff, GERALD DZIEDZIC, JR, is a resident of the City of Flint, County of Genesee and State of Michigan.

2. At all times, relevant hereto, Defendant, UNUM LIFE INSURANCE COMPANY OF AMERICA, is a foreign insurance corporation in good standing and continuously conducting business throughout the State of Michigan.

3. At all times, relevant hereto, Defendant, UNUM LIFE INSURANCE COMPANY OF AMERICA, was compensated for and provided Long-Term Disability coverage pursuant to the terms of a group employee benefits plan provided for the benefit of Plaintiff, GERALD DZIEDZIC, JR, and other employees, by their employer.

4. The Long-Term Disability insurance policy issued by Defendant, UNUM LIFE INSURANCE COMPANY OF AMERICA, is a group employee benefit plan covered by and within the meaning of the Employee Retirement Income Security Act ("ERISA"), 29 U.S.C. § 1001 et seq.

5. The terms of said contract of insurance obligated Defendant, UNUM LIFE INSURANCE COMPANY OF AMERICA, to provide Plaintiff, GERALD DZIEDZIC, JR with Long-Term Disability Benefits, in the event that Plaintiff was rendered unable to work due to injury, disease or other medical condition.

6. That Plaintiff, GERALD DZIEDZIC, JR, is walker dependent because of significant disequilibrium secondary to peripheral neuropathy, left foot drop and toe amputations x5 on the right foot. In addition, claimant suffers from uncontrolled diabetes, chronic back and hip pain on the right (history of 2019 right hip replacement and 1986, 2012 & 2014 lumbar fusions) morbid obesity, uncontrolled hypertension, and new onset kidney disease which contribute further to his restrictions and limitations. As a result, Plaintiff's conditions have made it impossible for him to work.

7. Defendant, UNUM LIFE INSURANCE COMPANY OF AMERICA, has wrongfully denied Plaintiff's Long-Term Disability Benefits.

8. Defendant's denial of benefits was arbitrary and capricious and was contrary to medical and other evidence that overwhelmingly supports Plaintiff's claim of total and permanent disability. Defendant's refusal to pay Plaintiff's benefits therefore amounts to a breach of the contract for insurance.

9. Plaintiff, GERALD DZIEDZIC, JR, has exhausted all required appeals and/or reconsideration processes provided by Defendant; nevertheless, Defendant refuses to resume payment of benefits rightfully due and owing to Plaintiff.

10. Plaintiff, GERALD DZIEDZIC, JR, is a person empowered to bring a civil action under 29 U.S.C. § 1132(a)(1)(B) to force the Defendant to comply with the Act and pay Long-Term Disability Benefits to Plaintiff.

11. 29 U.S.C. § 1132(a)(1)(B) reads as follows:

(a) Persons Empowered to Bring a Civil Action
A civil action may be brought –

(1) by a participant or beneficiary –

(B) to recover benefits due to her under the terms of the plan, to enforce her rights under the terms of the plan, or to clarify her rights to future benefits under the terms of the plan[.]

12. As a result of Defendant's wrongful denial of Long-Term Disability Benefits, Plaintiff, GERALD DZIEDZIC, JR, has sustained the following damages, including, but not limited to:

(a) Loss of past, present and future income in the form of wage loss compensation benefits;

WHEREFORE, Plaintiff, GERALD DZIEDZIC, JR, prays for Judgment in his favor and against the Defendant, UNUM LIFE INSURANCE COMPANY OF

AMERICA, in whatever amount he is found to be entitled, in addition to costs, interest and attorney fees.

Respectfully submitted,

LEVINE BENJAMIN, P.C.

/s/ DONALD W. BUSTA, JR

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Dated: December 20, 2021